

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Larsen et al.	Confirmation No.:	5189
Serial No.:	10/534,201	Art Unit:	1654
§ 371(c) Date:	April 7, 2006	Examiner:	Maury A. Audet
Customer No.:	21559		
Title:	PEPTIDE GAP JUNCTION MODULATORS		

REPLY TO RESTRICTION REQUIREMENT

In reply to the Restriction Requirement that was mailed in connection with the above-captioned case on July 22, 2010, Applicants elect the genus of Lys-Gly peptides for examination. The subject matter of claims 1, 56, 57, 61-73, 75, 77-80, and 89 reads on the elected genus. This election is made with traverse.

In making the requirement for restriction, the Office states:

The core structure between the amended genus peptide formulas is known and thus turns upon an individual search of each genus formula. The Examiner attempted an updated search of the art on both of the amended genus peptide formulas now claimed. 34 references were uncovered, as well as over 100 references total (including inventors search, term search). In reviewing the search to distinct compounds, an undue burden is posed, since art on one compound structure clearly will not read on the other distinct structure. Applicant is required to elect and amend the claims to one or the other compound structure. Under MPEP 800-804 restriction is proper at anytime during prosecution, as necessary.

Applicants respectfully disagree. As an initial matter, this application is the national stage of International Application PCT/DK2003/000805. As required by 37 C.F.R. § 1.499 and explained in MPEP § 1893.03(d), restriction practice in national stage applications must be carried out under the unity of invention standard, not under restriction practice pursuant to 37 C.F.R. §§ 1.141-1.146. As explained in MPEP §§ 1850 and 1893.03(d), the unity of invention standard requires that the invention or group of inventions be linked